

### REMARKS

Applicants thank the Examiner for reopening prosecution in response to the Appeal Brief filed on August 27, 2009.

#### Amendments to the Claims

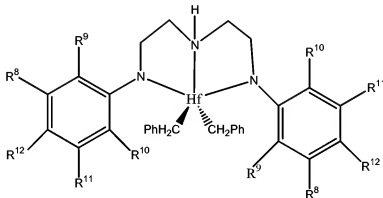
Applicants have amended the claims as discussed with the Examiner in the telephone conversation of November 17, 2009. In particular, Claim 49 has been incorporated into Claim 1. As a result of the amendment, Applicants have cancelled Claims 7-10 and 49.

Claims 1, 12, 15, 17, and 19-21 are now currently pending.

#### Oath/Declaration

A supplemental Oath and Declaration under 37 C.F.R. 1.175 is being submitted herewith on PTO Form sb52. The at least one error upon which re-issue is to be based is that:

Claim 1 was too broad and should be limited to where the second catalyst component is a metallocene compound and wherein the Group 15 containing tridentate ligated Group 3 to 7 metal compound is represented by the formula:



wherein R<sup>8</sup> to R<sup>12</sup> are each independently a methyl, ethyl, propyl, or butyl group.

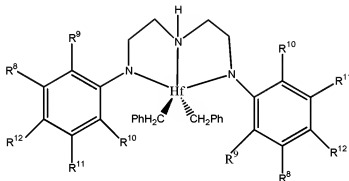
#### Nonstatutory Obviousness-Type Double Patenting

Claims 1, 7-10, 12, 15, 17, 19-21, and 49 have been rejected on the ground of nonstatutory obviousness-type double patenting over the claims 1-38 of U.S. Patent No. 6,271,325 to McConville *et al* (herein "McConville") in view of U.S. Patent No. 4,530,914 to Ewen *et al* (herein "Ewen"). Applicants submit herewith a terminal disclaimer over McConville and request that the rejection be withdrawn.

Rejection Under 35 U.S.C. §103

Claims 1, 7-10, 12, 15, 17, and 19-21, and 49 have been rejected under 35 U.S.C. §103(a) as being unpatentable over McConville in view of Ewen. Applicants respectfully traverse the rejection and request reconsideration.

Applicants amended Claim 1 claims a process for polymerizing olefin(s) comprising, combining said olefin(s) and a catalyst composition having a first catalyst component and a second catalyst component. The first catalyst component comprises a Group 15 containing tridentate ligated Group 3 to 7 metal compound wherein the Group 3 to 7 metal atom is bound to at least one leaving group and to three Group 15 atoms, and wherein two of the Group 15 atoms are each bound to the third Group 15 atom through a bridging group. The second catalyst component is a metallocene compound. In the process the first catalyst component and the second catalyst component are added to a polymerization reactor in one of a solution, a suspension or an emulsion and the polymerization process is a continuous gas or slurry phase process. The first catalyst component's Group 15 containing tridentate ligated Group 3 to 7 metal compound is represented by the formula:



wherein R<sup>8</sup> to R<sup>12</sup> are each independently a methyl, ethyl, propyl, or butyl group.

As Applicants have shown in the Examples of the instant disclosure, a Group 15 catalyst compound limited according to the limitations recited in Claim 1, when utilized according to the presently claimed invention, produces a polymer having unexpected and non-obvious improvements over polymers produced by processes known in the art. While McConville discloses this Group 15 catalyst compound to be a preferred embodiment, nothing in McConville nor Ewen discloses or suggests that this particular embodiment of the Group 15 catalyst compound will combine with a metallocene catalyst compound to produce a polymer having the

novel and non-obvious benefits as disclosed in the instant application. Thus, Applicants submit that McConville and/or Ewen fail to disclose or suggest combination of the recited Group 15 catalyst compound with a metallocene catalyst of the presently claimed invention. As such, Ewen cannot be found to combine with McConville to render the presently claimed invention obvious. Therefore, Applicants respectfully request that the rejection be withdrawn.

Claims 1, 7-10, 12, 15, 17, 19-21, and 49 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,294,495 to Matsunaga (herein "Matsunaga") in view of Ewen. Applicants respectfully traverse the rejection and request reconsideration.

As Applicants show in the Examples of the instant disclosure, a Group 15 catalyst compound limited according to the limitations recited in Claim 1, when utilized according to the presently claimed invention, produces a polymer having unexpected and non-obvious improvements over polymers produced by processes known in the art. Matsunaga fails to disclose Applicants' recited Group 15 catalyst compound. Nothing in Matsunaga nor Ewen disclose or suggests that this particular embodiment of the Group 15 catalyst compound will combine with a metallocene catalyst compound to produce a polymer having the novel and non-obvious benefits as disclosed in the instant application. Thus, Applicants submit that Matsunaga combined with Ewen fail to disclose or suggest a combination of the recited Group 15 catalyst compound with a metallocene catalyst of the presently claimed invention. As such, Ewen cannot be found to combine with Matsunaga to render the presently claimed invention obvious. Therefore, Applicants respectfully request that the rejection be withdrawn.

Applicants respectfully request that all rejections be withdrawn and solicit a prompt notice of allowability. In the alternative, Applicants invite the Office to telephone the undersigned attorney if there are any other issues outstanding which have not been presented to the Office's satisfaction.

April 29, 2010

Date

/Jennifer A. Schmidt/

Jennifer A. Schmidt

Registration No. 63,040

**Univation Technologies, LLC**

5555 San Felipe, Suite 1950

Houston, Texas 77056-2723

Phone: 713-892-3729

Fax: 713-892-3687